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SUBJECT: KOSOVO: THREE CONTENTIOUS RACES MAR SECOND PHASE OF
MUNICIPAL ELECTIONS

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SENSITIVE BUT UNCLASSIFIED - PLEASE PROTECT ACCORDINGLY

11. (SBU) SUMMARY: In the wake of the December 13 runoffs, three of Kosovo's mayoral elections remain undecided and mired in partisan accusations of electoral fraud between governing coalition partners PDK and LDK. The Central Elections Commission (CEC) and the independent Elections Complaints and Appeals Commission (ECAC), the two institutional bodies responsible for managing the country's electoral process and adjudicating election complaints respectively, have struggled to resolve allegations of fraud in mayoral races in Prizren, Lipjan/Lipljan and Gjilan/Gnjilane. A split-the-baby decision by the CEC to hold new runoffs in Prizren and Lipjan/Lipljan on January 31, but only to recount ballots in Gjilan/Gnjilane, has tarnished an electoral process that had won praise from observers for its relative fairness and transparency after the first-round of municipal elections on November 15. Moreover, friction between central government coalition partners PDK and LDK seems only to grow as a result of this dispute, feeding rumors of possible early general elections. END SUMMARY

IRREGULARITIES CITED IN THREE MAYORAL RACES

12. (SBU) On December 19, ECAC issued a decision instructing the CEC to organize new runoff mayoral elections for Prizren, Lipjan/Lipljan and Gjilan/Gnjilane municipalities, citing evidence of serious irregularities and/or electoral fraud affecting over half of the polling centers in each municipality. All three mayoral races were competitive contests between incumbent mayors representing Prime Minister Thaci's PDK and challengers from LDK (its partner in an uneasy coalition at the central level). The December 13 runoffs left Prizren too-close-to-call, hanging on uncounted conditional ballots, while Lipjan/Lipljan and Gjilan/Gnjilane trended towards tight PDK victories. However, when the CEC asked ECAC to clarify whether its decision was legally binding, ECAC, composed of three Kosovo judges who were left interpreting an ambiguous provision of the election law, subsequently ruled that its decision was only suggested guidance and that the final decision whether to order new

elections rested with the CEC.

PDK CHERRY-PICKS ECAC DECISION

13. (SBU) The CEC is composed of representatives of all the country's major political parties and includes representatives from the Serb, Bosniak, Turkish and Roma communities. However, the ten-member body is effectively controlled by PDK, which alone among the other parties has two representatives, and consistently enjoys the support of the four minority representatives on all important votes. Against this backdrop, on December 22, the CEC voted to hold new runoff mayoral elections in Prizren and Lipjan/Lipljan pursuant to ECAC's decision, but decided instead to recount ballots in Gjilan/Gnjilane and investigate ECAC's allegations of electoral fraud in that race alone. On December 29, it voted to hold these new runoffs January 31. LDK has accused the PDK and its allies of cherry-picking ECAC's decision to benefit PDK and its candidates in the three municipalities.

14. (SBU) LDK contacts told us that PDK's lead in Gjilan/Gnjilane was large enough that they expected to lose even if all of the ballots LDK had protested were tossed out. Therefore, a recount in Gjilan/Gnjilane, rather than a revote, preserves a PDK victory there. By contrast, a recount in Prizren, where about a thousand conditional ballots from mostly urban, LDK-leaning areas remained to be counted, could have resulted in an LDK upset in one of the country's largest cities. Instead, PDK now has an opportunity to retain the mayoralty in Prizren through a revote. In the Lipjan/Lipljan runoff PDK enjoyed a narrow lead over LDK (50.5 percent to 49.5 percent), but there too it could not be sure of prevailing in a recount that included uncounted conditional ballots. Like Prizren, PDK now has a second bite at the apple in

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Lipjan/Lipljan via the January 31 revote.

EMBASSY TO CEC: TWO OUT OF THREE NOT A PASSING GRADE

15. (SBU) On December 23, in the midst of the controversy, the Ambassador met with CEC Chair Nesrin Lushta to assure her of the USG's continued support for the election process. After these consultations, we issued a statement welcoming the CEC's decision to implement, in part, the ECAC decision that instructed that new mayoral runoff elections be held, but also expressing the hope that, upon further review, the CEC would recognize its obligation fully to respect ECAC's decision to hold new elections in Gjilan/Gnjilane as well. Finally, the statement noted that the intent of the law in this matter was clear, applauded Lushta's efforts to uphold the law, and encouraged all political parties to respect both the letter and the spirit of the law. The CEC has so far refused to review its decision to implement the ECAC's decision only in part.

CEC CERTIFIES OTHER RESULTS

16. (SBU) In a separate development December 29, CEC certified results for the remaining 18 mayoral races, which accorded with preliminary results reported after the December 13 runoffs (Reftel). The Embassy, USAID and USAID's election assistance implementers IFES continue to cooperate closely with CEC staff on election issues; the recount for Gjilan/Gnjilane has been postponed until January 6 and CEC has agreed to allow IFES' elections experts to conduct the investigation into ECAC's allegations of election irregularities in Gjilan/Gnjilane.

COMMENT

17. (SBU) Our public statement in support of the full implementation of ECAC's decision was intended to give the CEC the space it needed to make a difficult but important choice. While the statement was welcomed by independent pundits and prognosticators, we are disappointed that CEC Chair Lushta and the organization she leads failed to seize the space opened up for them to honor ECAC's intent

on Gjilan/Gnjilane. In the meantime, LDK frustration with what it and others perceive as a crass PDK power play is growing, partisan bickering among PDK and LDK party representatives in the CEC is continuing, and speculation about the future of the coalition is rising. In this environment, it is difficult to imagine the January 31 runoffs in Prizren and Lipjan/Lipljan doing anything other than further poisoning relations between PDK and LDK, a trend that, if left unchecked, increases the likelihood of early general elections in 2010.

MURPHY